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SENATE BILL 425

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

INTRODUCED BY

H. Diane Snyder

AN ACT

RELATING TO TAXATION; PROVIDING A BUSINESS SERVICES TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. BUSINESS SERVICES TAX CREDIT.--

A. The tax credit provided in this section may be referred to as the "business services tax credit". An eligible taxpayer may apply for, and the department may allow, a tax credit in an amount equal to:

(1) one percent of qualified business service expenditures by the taxpayer; or

(2) in the case of a taxpayer that claims the gross receipts tax deduction pursuant to Section 7-9-73.1 NMSA 1978, one-half percent of qualified business service expenditures by the taxpayer.

B. The business services tax credit may be claimed

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1 by an eligible taxpayer for qualified business service  
2 expenditures paid on or after July 1, 2004 and within three  
3 years of the end of the calendar year in which the expenditure  
4 was made.

5 C. The business services tax credit may be claimed  
6 against state gross receipts tax, compensating tax or  
7 withholding tax for which the taxpayer would be liable for a  
8 tax reporting period in which the qualified business service  
9 expenditure was paid or later periods. In no case may the  
10 credit taken exceed the total gross receipts tax, compensating  
11 tax or withholding tax due for the reporting period. After the  
12 initial reporting period in which part of the credit for a  
13 qualified expenditure was claimed, any excess credit may be  
14 carried forward and used in future reporting periods.

15 D. For the purposes of this section:

16 (1) "department" means "department" as defined  
17 in the Tax Administration Act;

18 (2) "eligible taxpayer" means "taxpayer" as  
19 defined in the Tax Administration Act but does not include:

20 (a) a federal, state or other  
21 governmental unit or subdivision or an agency, department,  
22 institution or instrumentality thereof;

23 (b) a taxpayer qualified to take an  
24 exemption granted pursuant to Section 7-9-16, 7-9-24 or 7-9-29  
25 NMSA 1978; or

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1 (c) a taxpayer that is subject to the  
2 premium tax pursuant to Section 59A-6-2 NMSA 1978; and

3 (3) "qualified business service expenditure"  
4 means an amount paid to purchase services performed in New  
5 Mexico if the receipts from that purchase are subject to gross  
6 receipts tax and are not eligible for a deduction or exemption  
7 from the gross receipts tax, but does not include expenditures  
8 for:

9 (a) entertainment or recreational  
10 services, including expenditures not deductible for purposes of  
11 determining net income under the Internal Revenue Code of 1986  
12 and expenditures deductible only under Section 274 of the  
13 Internal Revenue Code;

14 (b) janitorial services;

15 (c) repair and maintenance services;

16 (d) services in respect to which the  
17 taxpayer applies for and is granted any other New Mexico tax  
18 credit; and

19 (e) gross receipts taxes.

20 E. The department shall provide forms and  
21 instructions for claiming the business services tax credit as a  
22 reduction of tax due on the tax return on which the taxpayer  
23 reports gross receipts tax, compensating tax or withholding  
24 tax.

25 F. The department shall administer the business

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1 services tax credit pursuant to the provisions of the Tax  
2 Administration Act.

3 Section 2. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is July 1, 2004.

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